

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

TONY S. BARNES, )  
Plaintiff, ) Civil Action No. 15-134  
v. ) Judge Kim R. Gibson  
PAMELA WERTZ, PRIME CARE ) Chief Magistrate Judge Maureen P. Kelly  
MEDICAL, INC., MARC T. MASUCCI, )  
MICHAEL T. JOHNSON, OFFICER URISH, )  
BLAIR COUNTY, BLAIR COUNTY ) Re: ECF No. 45  
PRISON BOARD, JOHN DOES 1-3, and )  
JANE DOE, )  
Defendants. )

O R D E R

AND NOW, this 26<sup>th</sup> day of September, 2016, after Plaintiff Tony S. Barnes, ("Plaintiff") filed an action in the above-captioned case, and after a Motion to Dismiss was filed by Defendant Marc T. Masucci, and after a Report and Recommendation was filed by the United States Magistrate Judge, and no Objections thereto having been filed, and upon independent review of the record, and upon consideration of the Magistrate Judge's Report and Recommendation, which is adopted as the opinion of this Court,

IT IS HEREBY ORDERED that the Motion to Dismiss, ECF No. 45, is granted. However, IT IS FURTHER ORDERED the dismissal is without prejudice as to Counts II, IV, VI and VII. IT IS FURTHER ORDERED that Plaintiff is permitted to file, within twenty (20) days of the date of this Order, an Amended Complaint on these counts to specifically address the deficiencies identified herein.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of

Appellate Procedure, if any party wishes to appeal from this Order a notice of appeal, as provided in Fed. R. App. P. 3, must be filed with the Clerk of Court, United States District Court, at 700 Grant Street, Room 3110, Pittsburgh, PA 15219, within thirty (30) days.

By the Court:



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Kim R. Gibson  
United States District Judge

cc: Honorable Maureen P. Kelly  
Chief United States Magistrate Judge

Tony S. Barnes  
LT-2008  
SCI Smithfield  
P.O. Box 999  
1120 Pike Street  
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All counsel of record via CM-ECF